

LAW OFFICE OF  
DAVID J. WEINSOFF  
138 Ridgeway Avenue  
Fairfax, California 94930  
tel. 415-460-9760  
david@weinsofflaw.com

***Via Certified Mailing – Return Receipt***

April 19, 2016

Mr. Mark Ferronato  
Ms. Michele Cotta  
Owner or Managing Agent  
Santa Rosa Stainless Steel Fabricators, Inc.  
1400 Airport Blvd.  
Santa Rosa, CA 95403

Mr. Mark Ferronato  
Ms. Michele Cotta  
Owner or Managing Agent  
Santa Rosa Stainless Steel Fabricators, Inc.  
P.O. Box 518  
Santa Rosa, CA 95402

**Re: Notice of Violations and Intent to File Suit Under the Federal Water  
Pollution Control Act (Clean Water Act)**

Dear Mr. Ferronato, Ms. Cotta, Owner or Managing Agent:

**NOTICE OF ALLEGED VIOLATIONS**

This Notice is provided on behalf of California River Watch ("River Watch") in regard to violations of the Clean Water Act ("CWA" or "Act") 33 U.S.C. §1251 *et seq.*, that River Watch believes are occurring at the Santa Rosa Stainless Steel Fabricators facility owned and operated by Mark Ferronato and Michele Cotta ("the Facility") and located at 1400 Airport Boulevard in Santa Rosa, California. Notice is being sent to you as the responsible owners, operators, and managers of the Facility and real property. This Notice addresses the violations of the CWA, including violation of the terms of the General California Industrial Storm Water Permit, and the unlawful discharge of pollutants from the Facility to Mark West Creek, which joins the Laguna de Santa Rosa and then the Russian River, both of which are CWA §303(d) waterways collectively impaired for sediment, temperature, nutrients, pathogens, and mercury.

CWA §301(a), 33 U.S.C. §1311(a), prohibits the discharge of any pollutant into waters of the United States unless such discharge is in compliance with various enumerated sections of the Act. Among other things, Section 301(a) prohibits discharges not authorized by, or in violation of, the terms of an individual National Pollutant Discharge Elimination System ("NPDES")

permit or a general NPDES permit issued pursuant to CWA §402(p), 33 U.S.C. §1342. CWA §402(p), 33 U.S.C. §1342(p), establishes a framework for regulating storm water discharges under the NPDES program. States with approved NPDES permitting programs are authorized under this section to regulate storm water discharges through permits issued to dischargers and/or through the issuance of a single, statewide general permit applicable to all storm water dischargers. Pursuant to CWA §402, the Administrator of the U.S. Environmental Protection Agency ("EPA") has authorized California's State Water Resources Control Board to issue NPDES permits including general NPDES permits in California.

The State Water Resources Control Board elected to issue a statewide general permit for industrial discharges, and issued the General Permit on or about November 19, 1991, modified it on or about September 17, 1992, reissued it on or about April 17, 1997, and amended it significantly on April 1, 2014 (effective July 1, 2015), pursuant to CWA §402(p). In order to discharge storm water lawfully in California, industrial dischargers must comply with the terms of the General Permit or have obtained an individual NPDES permit and complied with its terms.

CWA §505(b) requires a citizen to give notice of the intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act. Notice must be given to the alleged violator, the U.S. EPA, and the state in which the violations occur. As required by the CWA, this Notice provides notice of the violations that have occurred, and continue to occur at the Facility. Consequently, Santa Rosa Stainless Steel Fabricators, Inc., Mark Ferronato and Michele Cotta (collectively, the "Discharger") is placed on formal notice by River Watch that after the expiration of sixty (60) days from the date of this Notice, River Watch will be entitled to bring suit in the United States District Court against the Discharger for continuing violations of an effluent standard or limitation, NPDES permit condition or requirement, or Federal or State Order issued under the CWA (in particular, but not limited to, CWA §301(a), §402(p), and §505(a)(1), as well as the failure to comply with requirements set forth in the Code of Federal Regulations and the North Coast Regional Water Quality Control Board ("RWQCB") Water Quality Control Plan or "Basin Plan."

The CWA requires that any Notice regarding an alleged violation of an effluent standard or limitation or of an order with respect thereto shall include sufficient information to permit the recipient to identify the following:

1. *The specific standard, limitation, or order alleged to have been violated.*

To comply with this requirement, River Watch notices the Discharger of ongoing violations of the substantive and procedural requirements of CWA §402(p) and violations of NPDES Permit No. CAS000001, State Water Resources Control Board, Order No. 92-12-DWQ as amended by Order No. 97-03-DWQ and Order No. 2014-0057-DWQ (the "General Permit") relating to the fabricated metal products services and operations at the Facility.

The Discharger, rather than seeking coverage under an individual NPDES permit, filed a Notice of Intent ("NOI") agreeing to comply with the terms and conditions of the General Permit. The State Water Resources Control Board originally approved the NOI on or about July 20, 1993, and the Discharger was assigned Waste Discharger Identification ("WDID") number 1



49I010344. River Watch, on the basis of eye-witness reports and records publicly available and/or records in the possession and control of the Discharger, contends that in the continuing operation of the Facility, the Discharger has failed and is failing to comply with the terms and conditions of the General Permit – specifically the requirements governing sampling and analysis, requiring the preparation and implementation of effective Best Management Practices (“BMPs”) in its Storm Water Pollution Prevention Plan (“SWPPP”), and ensuring the elimination of all non-authorized storm water discharges from the Facility.

Compliance with these General Permit requirements is central to the effectiveness of the General Permit program. River Watch contends the Discharger has failed and is failing to comply with the following specific General Permit requirements as detailed in the Annual Reports and SMARTs it submitted or failed to submit for reporting years 2013-2014, 2014-2015, and 2015-2016 (to date) as follows:

a. Alleged Violations During the 2013-2014 through 2014-2015 Annual Reporting Years

The General Permit in effect prior to July 1, 2015 (Order No. 97-03-DWQ) required all non-exempt facilities to collect and accurately analyze samples from two annual storm events, and to certify that it implements effective BMPs detailed in the facility’s SWPPP that are “adequate in reducing or preventing pollutants in storm water discharges and authorized non-storm water discharges.”<sup>1</sup>

2013-2014 Annual Reporting Year

The Facility states in the Annual Report that it provides four (4) samples from one (1) sampling location (Monitoring and Reporting Program, Sampling and Analysis Results, Sections E.1 and E.3). The Facility states in its NOI that its operations are identified under SIC Code 3499. This SIC Code requires the sampling of additional “Table D” parameters zinc, N+N, iron, and aluminum in addition to TSS, pH, specific conductance, and oil and grease or TOC.

- *November 19, 2013 Sampling Results.* The Report fails to provide any sampling data for the Table D parameters in the laboratory results reported on “Form 1 – Sampling and Analysis Results.”
- *February 6, 2014 Sampling Results.* The Report identifies a sampling result for aluminum measured at 1.9 mg/L, zinc measured at .33 mg/L, and iron measured at 2 mg/L. These sampling results are in excess of the Annual NAL, EPA Benchmark, and California Toxics Rule (“CTR”) limits for these pollutants.

---

<sup>1</sup> See the Annual Report Form, in the Section titled *Specific Information*, “Annual Comprehensive Site Compliance Evaluation (ACSCE),” H. ACSCE Checklist, Subparagraph 6. In addition, the Facility Operator routinely “certified” that the Facility was in “compliance with the Industrial Activities Storm Water General Permit. To certify compliance, both the SWPPP and Monitoring Program must be fully implemented.” See the Annual Report Form, in the Section titled *Specific Information*, “Annual Comprehensive Site Compliance Evaluation (ACSCE),” J. ACSCE Certification.

- *February 26, 2014 Sampling Results.* The Report identifies a sampling result for zinc measured at .94 mg/L. This sampling result is in excess of the Annual NAL, EPA Benchmark, and CTR limits for these pollutants.
- *March 25, 2014 Sampling Results.* The Report identifies a sampling result for aluminum measured at 17 mg/L, zinc measured at .53 mg/L, and iron measured at 16 mg/L. These sampling results are in excess of the Annual NAL, EPA Benchmark, and CTR limits for these pollutants.

Note that correspondence dated October 17, 2014 from Mona Dougherty, RWQCB Senior Water Resource Control Officer to Mark Ferronato confirms the exceedances of benchmark levels for aluminum, zinc, and iron.

#### 2014-2015 Annual Reporting Year

The Facility states in the Annual Report that it provides four (4) samples from one (1) sampling location (Monitoring and Reporting Program, Sampling and Analysis Results, Sections E.1 and E.3). The Facility states in its NOI that its operations are identified under SIC Code 3499. This SIC Code requires the sampling of additional "Table D" parameters zinc, N+N, iron, and aluminum in addition to TSS, pH, specific conductance, and oil and grease or TOC.

- *October 31, 2014 Sampling Results.* The Report identifies a sampling result for TSS measured at 140 mg/L, aluminum measured at 13 mg/L, zinc measured at .41 mg/L, and iron measured at 14 mg/L. These sampling results are in excess of the Annual NAL, EPA Benchmark, and CTR limits for these pollutants.
- *November 19, 2014 Sampling Results.* The Report identifies a sampling result for TSS measured at 170 mg/L, aluminum measured at 11 mg/L, zinc measured at .30 mg/L, and iron measured at 12 mg/L. These sampling results are in excess of the Annual NAL, EPA Benchmark, and CTR limits for these pollutants.
- *February 6, 2015 Sampling Results.* The Report identifies a sampling result for TSS measured at 120 mg/L, aluminum measured at 7.2 mg/L, zinc measured at .68 mg/L, and iron measured at 7.4. This sampling result is in excess of the Annual NAL, EPA Benchmark, and CTR limits for these pollutants.
- *April 7, 2015 Sampling Results.* The Report identifies a sampling result for aluminum measured at 3.6 mg/L, zinc measured at .53 mg/L, and iron measured at 16 mg/L. These sampling results are in excess of the Annual NAL, EPA Benchmark, and CTR limits for these pollutants.

#### b. Alleged Violation During the 2015-2016 Annual Reporting Year

The General Permit in effect beginning July 1, 2015 (Order No. 2014-0057-DWQ), imposes new sampling and reporting requirements. Under Section XI.B. ("Sampling and



Analysis”), the Discharger must collect and analyze storm water samples from two (2) qualifying storm events within the first half of each reporting year (July 1 to December 31), and from two (2) qualifying storm events within the second half of each reporting year (January 1 to June 30). The sampling and analytical results must be reported via SMARTs within thirty (30) days of obtaining the results. This General Permit requirement is specifically noted in Section 5.6.1 of the Discharger’s May, 2015 SWPPP titled “Industrial Activities Stormwater Pollution Prevention Plan for Santa Rosa Stainless Steel.”

A review of SMARTs database on April 19, 2016 revealed that the Discharger has failed to provide any of the mandated samples from qualifying storm events to date during the 2015-2016 Annual Reporting year. The failure to do so in this case is a violation of the General Permit.

2. *The activity alleged to constitute a violation.*

The Discharger’s operations, classified under SIC Code 3499 (“Fabricated Metal Products, Not Elsewhere Classified”) in the NOI, include a range of “Potential Pollutant Sources” including, but not limited to, “Stainless Steel Tanks,” “Stainless Steel Tank Cooling & Heating Jackets,” “Aluminum Catwalks,” “Tank Components,” and “Stainless Steel Screens” (<http://srss.com/>; April 15, 2016). The Facility SWPPP further identifies Potential Pollutant Sources in Section 2.3 / Table 2.1: Anti-Freeze, Battery Cleaner, Brake Fluid DOT 3, Disc Break Quiet, Chain Lube, Automatic Trans fluid, Form-A-Gasket, Fifth Wheel Lube, Power Punch, RTV Sealant, Starting Fluid, Window Cleaner, Paint and Paint Thinner, Debris Boxes, Sediment, and Dust.

The work at the Facility is conducted outdoors where it is subject to rain events. Because there is no State Water Resources Control Board or RWQCB exemption from the collecting and analyzing of the range of pollutants identified above, and without implementing effective BMPs, there are unlawful discharge(s) of the pollutants identified above from the Facility to Mark West Creek, the Laguna de Santa Rosa, and the Russian River – all waters of the United States.

To properly regulate these activities and control the discharge of these types of pollutants, the State Water Resources Control Board requires industrial facilities to obtain and comply with the terms and conditions of an individual NPDES permit or seek coverage under the General Permit (or obtain a proper exemption under the terms of the General Permit from its requirements). Review of the public record by River Watch reveals that the Discharger obtained coverage under the General Permit for the Facility, but fails to comply with its environmentally protective requirements, in particular the implementation of effective BMPs.

Note that in addition to the pollution controls in the General Permit, the RWQCB has established water quality standards applicable to facilities such as that operated by the Discharger. The RWQCB Basin Plan includes both a narrative toxicity standard and a narrative oil and grease standard, providing that “[w]aters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.” The Basin Plan establishes limits on metals, solvents, pesticides and other hydrocarbons.

3. *The person or persons responsible for the alleged violation.*

The persons and entities responsible for the alleged violations are Santa Rosa Stainless Steel Fabricators, Inc., Mark Ferronato, Michele Cotta, and the owner or managing agent, referred to collectively in this Notice as the Discharger.

4. *The location of the alleged violation.*

The location or locations of the various violations is the permanent address of the Facility at 1400 Airport Boulevard in Santa Rosa, California, including the waters of Mark West Creek, the Laguna de Santa Rosa, and the Russian River – all waters of the United States.

5. *The date or dates of violation or a reasonable range of dates during which the alleged activity occurred.*

The range of dates covered by this Notice is from July 1, 2013 to April 19, 2016. River Watch will from time to time further update this Notice to include all violations which occur after the range of dates covered by this Notice. Some of the violations are continuous in nature, therefore each day constitutes a violation.

6. *The full name, address, and telephone number of the person giving notice.*

The entity giving this Notice is California River Watch, an Internal Revenue Code § 501(c)(3) nonprofit, Public Benefit corporation organized under the laws of the State of California, with headquarters located in Sebastopol, California and offices in Los Angeles, California. River Watch's northern California mailing address is 290 South Main Street, #817, Sebastopol, California 95472. The mailing address of River Watch's southern California office is 7401 Crenshaw Blvd., #422, Los Angeles, California 90043. River Watch is dedicated to protecting, enhancing and helping to restore surface and ground waters of California including rivers, creeks, streams, wetlands, vernal pools, aquifers and associated environs, biota, flora and fauna, and to educating the public concerning environmental issues associated with these environs.

River Watch may be contacted via email: [US@ncriverwatch.org](mailto:US@ncriverwatch.org), or through its attorneys. River Watch has retained legal counsel with respect to the issues set forth in this Notice. All communications should be directed to:

David Weinsoff, Esq.  
Law Office of David Weinsoff  
138 Ridgeway Avenue  
Fairfax, CA 94930  
Tel. 415-460-9760  
Email: [david@weinsofflaw.com](mailto:david@weinsofflaw.com)

## REMEDIAL MEASURES REQUESTED

River Watch believes that implementation of the following remedial measures are necessary in order to bring the Discharger into compliance with the CWA and reduce the biological impacts from its non-compliance upon public health and the environment surrounding the Facility:

1. Prohibition of the discharges of pollutants including, but not limited to, pH, total suspended solids, total organic carbon or oil & grease (the standard pollutants); with additional prohibitions for iron, N+N aluminum, and zinc, all of which are specific General Permit Section XI. (Monitoring) "Table 1: Additional Analytical Parameters" required to be sampled for facilities identified under SIC code 3499.
2. Compliance with the terms and conditions of the General Permit, and BMPs detailed in the EPA's Industrial Stormwater Fact Sheet Series: "Sector AA: Fabricated Metal Products Manufacturing Facilities" (EPA Office of Water, EPA-833-F-06-042, December 2006 ([https://www.epa.gov/sites/production/files/2015-10/documents/sector\\_aa\\_fabmetal.pdf](https://www.epa.gov/sites/production/files/2015-10/documents/sector_aa_fabmetal.pdf)));
3. Compliance with the storm water sampling, monitoring and reporting requirements of the General Permit.
4. Preparation and submittal to the RWQCB of a "Reasonable Potential Analysis" for the Facility and its operations.
5. Preparation of further updates to the Facility's 2015 SWPPP that includes, but is not limited to, additional BMPs that address the violations alleged in this Notice Letter (with a copy provided to River Watch).

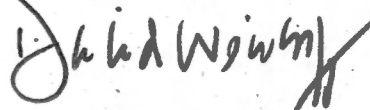
## CONCLUSION

The violations set forth in this Notice effect the health and enjoyment of members of River Watch who reside and recreate in the affected community. Members of River Watch use the affected watershed for recreation, sports, fishing, swimming, hiking, photography, and/or nature walks. Their health, use, and enjoyment of this natural resource is specifically impaired by the Discharger's alleged violations of the CWA as set forth in this Notice.

CWA §§505(a)(1) and 505(f) provide for citizen enforcement actions against any "person," including individuals, corporations, or partnerships, for violations of NPDES permit requirements and for un-permitted discharges of pollutants. 33 U.S.C. §§1365(a)(1) and (f), §1362(5). An action for injunctive relief under the CWA is authorized by 33 U.S.C. §1365(a). Violators of the Act are also subject to an assessment of civil penalties of up to \$37,500 per day/per violation for all violations pursuant to Sections 309(d) and 505 of the Act, 33 U.S.C. §§1319(d), 1365. See also 40 C.F.R. §§19.1-19.4. River Watch believes this Notice sufficiently states grounds for filing suit in federal court under the "citizen suit" provisions of CWA to obtain the relief provided for under the law.

The CWA specifically provides a **60-day** "notice period" to promote resolution of disputes. River Watch strongly encourages the Discharger to contact River Watch within **20 days** after receipt of this Notice Letter to: (1) initiate a discussion regarding the allegations detailed in this Notice, and (2) set a date for a site visit to the Facility. In the absence of productive discussions to resolve this dispute, or receipt of additional information demonstrating that the Discharger is in compliance with the strict terms and conditions of the General Permit, River Watch intends to file a citizen's suit under CWA §505(a) when the 60-day notice period ends.

Very truly yours,



David Weinsoff

DW:lhbm

*Service List*

Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N. W.  
Washington, D.C. 20460

Regional Administrator  
U.S. Environmental Protection Agency, Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Executive Director  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812

Executive Officer  
Regional Water Quality Control Board  
North Coast Region  
5550 Skylane Blvd / Suite A  
Santa Rosa, CA 95403

Mr. Mark Ferronato, Registered Agent  
Santa Rosa Stainless Steel Fabricators, Inc.  
4030 Barnes Road  
Santa Rosa, CA 95403